

Notice of Allowability	Application No.	Applicant(s)	
	10/733,970	EGGERS ET AL.	
	Examiner	Art Unit	
	Roy D. Gibson	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Election filed 22 April 2005.
2. ☒ The allowed claim(s) is/are 40-65, 94-103, 160-170 and 185-195.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>8/13/2004</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gerald Smith on August 22, 2005.

The application has been amended as follows:

non-elected claims 1-39, 66-93, 104-159, 171-184 and 196-217 have been canceled.

After Figure 35 in the Brief Description of the Drawings, the following has been inserted:

-- Figure 36 is a sectional view taken through plane 36-36 shown in Figure 35 --.

The following changes to the drawings have been approved by the examiner and agreed upon by applicant: All corrected drawings filed on 22 April are acceptable except for a minor correction to Figure 23E, box labeled 1232, where "timing" is still misspelled. In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

The following is an examiner's statement of reasons for allowance:

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none of the prior art of record discloses or suggests a method for thermally treating a target tissue within the body of a patient, comprising in part the combination of the following:

- (a) determining temperature and treatment interval therapy data for carrying out said treatment of said target tissue;
- (b) providing one or more passive resonant implants, each having an electromagnetic response of given intensity to an extra body applied interrogational electromagnetic field at a predetermined resonant center frequency only when said implant is at a monitor temperature or temperatures below a target temperature corresponding with said therapy data;
- (c) providing a heating assembly controllable to derive an output effecting the generation of heat at said target tissue from an application component located externally of said body;
- (d) providing an interrogation assembly having an antenna assembly and controllable to derive and apply said extra body interrogational electromagnetic field and having a detector output in correspondence with antenna assembly detections of said implant electromagnetic response at said predetermined resonant center frequency;
- (e) locating said one or more implants at an intra-body location effective for response to temperature at the location of said target tissue;
- (f) controlling said heating assembly to elevate the temperature of said target tissue;

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(g) controlling said interrogation assembly to derive and apply said extra body interrogational electromagnetic field to said located one or more implants for an interrogation interval deriving said detector output; and

(h) controlling said heating assembly in correspondence with said detector output.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

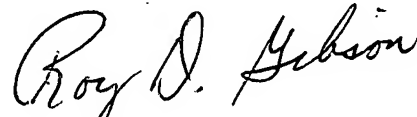
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Keilman et al. (6,231,516) disclose an apparatus including an implant, a RF coupling coil coupled to the implant and a therapeutic transducer electrically coupled to the RF coupling coil; and Doscher et al. (US 2002/0183829) disclose medical stents and devices for intercorporeal inductive heating of the stents, but lack an interrogation assembly with an antenna and detector as claimed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy D. Gibson whose telephone number is 571-272-4767. The examiner can normally be reached on M-F, 7:30 am-4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Roy D. Gibson
Primary Examiner
Art Unit 3739

August 22, 2005